

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	21 MC 101 (AKH)
	:	
IN RE SEPTEMBER 11 PROPERTY DAMAGE	:	This document also relates to:
AND BUSINESS LOSS LITIGATION	:	
	:	08 CIV 3719
	:	08 CIV 3722
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**DECLARATION OF SHELDON GOTTLIEB  
IN OPPOSITION TO THE AVIATION DEFENDANTS'  
MOTION FOR SUMMARY JUDGMENT BASED ON CPLR 4545(c)**

SHELDON GOTTLIEB, declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a MAI designated appraiser, meaning that as a MAI member I am certified by the Appraisal Institute as qualified and experienced in the valuation and evaluation of commercial properties. I submit this declaration in connection with the Aviation Defendants' Motion for Summary Judgment Based on CPLR 4545(c) ("Summary Judgment Motion"). This declaration is not intended to serve in lieu of an Expert Report, prepared pursuant to Fed. R. Civ. P. 26. A formal Rule 26 report may be prepared and provided at the appropriate time in this litigation.

**Professional Background and Qualifications**

2. I am the Senior Vice President and Chief Appraiser of the real estate and consulting firm Jerome Haims Realty, Inc. I have been with the firm for more than 30 years and have been its Chief Appraiser for 20 years. I am a former president of the Greater New York Chapter of the Society of Real Estate Appraisers (one of the two founding appraisal organizations that formed the Appraisal Institute). I currently serve as a member of the Appraisal Education Committee of the Real Estate Board of New York.

3. I have appraised over a thousand properties for companies, governmental agencies and private individuals. These appraisals have valued all types of property interests, including fee simple, leased fee and leasehold. I have appraised well over 100 commercial office buildings in the New York City metropolitan area as well as in other parts of the Northeast United States. I have given deposition and trial testimony in numerous judicial proceedings as an expert witness.
4. I am a graduate of City College of New York, Bernard M. Baruch School of Business and Public Administration, specializing in Real Estate and Economics.
5. I had inspected the World Trade Center complex before it was destroyed, had visited the property on various occasions and am familiar with the construction features, design, and rental amenities of the property. I have submitted appraisals and critiques of appraisals regarding the World Trade Center in insurance litigation involving the World Trade Center. This work was done pursuant to specific provisions in the insurance contracts and the insurance litigation.
6. An official certification, more comprehensive professional history, and a partial client list of my firm are attached as Exhibits 26, 27 and 28, respectively.

**Scope of Engagement**

7. I have been retained by the World Trade Center Properties plaintiffs (“WTCP”) to provide my professional opinion of the valuation opinions contained in the Defendants’ Summary Judgment Motion. I have reviewed the Summary Judgment Motion. My analysis is based on the value of the subject property, as a world class commercial office building complex with added value as an iconic property operated for the public benefit in accordance with its highest and best use. The date of my valuation is as of the date of the total destruction of the complex, September 11, 2001.
8. The original complex represented the highest and best use for the land. The buildings within the complex were maintained in excellent condition, having undergone a significant program of major capital improvements in the late 1990s. This included the alarm system, the elevator systems, the electrical system and other mechanical parts of the building and the integrated mechanical systems that served the buildings and other components of the complex. The property was well-suited for the special, dual, legislative purposes of (a) providing modern, iconic, office space for the downtown community, and (b) spurring the revitalization of lower Manhattan and the New York-New Jersey region. The property was essentially fully leased and Lower Manhattan had been substantially revitalized.

**The Summary Judgment Motion Does Not  
Properly Value the World Trade Center Buildings  
(1, 2, 4 and 5) Themselves or WTCP's Leasehold Interests**

9. The valuation of World Trade Center buildings 1, 2, 4 and 5 in the Summary Judgment Motion at \$2.8 billion is overly simplistic and just plain wrong because, among other reasons, it neglects to include the value of WTCP's leasehold interests. The value of a building or complex of buildings cannot be determined by an analysis of the net present value of the income stream from a net lease. Accordingly, with regard to the World Trade Center buildings 1, 2, 4 and 5, the value of the buildings is not fully reflected by any calculation of just the net present value of the stream of rentals to be paid by the leaseholders, WTCP.
10. The \$2.8 billion value suggested in the Summary Judgment Motion reflects only the net present value (based on chosen discount rates) of rental payments that WTCP committed to make to the Port Authority as one aspect of the lease transaction. The \$2.8 billion included the up-front payment, fixed lease payments and the contingent supplemental lease payments. This amount is only part of one element of a portion of the commercial component of the World Trade Center. This is because the net present value of these rental payments to the Port Authority reflects only the leased fee position. In valuing a property subject to a long-term lease, the entire property value is comprised of the leased fee (here, belonging to the Port Authority), the leasehold interest (here, belonging to

WTCP), plus the reversionary interest (here, belonging to the Port Authority).<sup>1</sup>

11. Although the Aviation Defendants fail to take it into account, it is obvious that WTCP would not have assumed the huge burden of the lease contract, with an up-front payment of about \$500 million plus long-term required payments of billions of dollars and various other obligations, unless there was a substantial likelihood of a significant return on their investment, via their leasehold interest, substantially above and beyond whatever rent WTCP had to pay to the Port Authority. That leasehold interest enables WTCP to capture increases in market rental rates as each subtenant lease periodically expires. That factor is a primary driving force behind WTCP entering into the lease.
12. Therefore, the value of the buildings themselves is obviously much greater than any \$2.8 billion net present value of lease payments to the Port Authority because the \$2.8 billion does not reflect the value of the WTCP's leasehold interest, which is obviously in addition to whatever rent WTCP had to pay to the Port Authority. Accordingly, the \$2.8 billion amount used in the Summary Judgment Motion is wrong because (a) it does not accurately value the buildings themselves (as discussed further below), (b) it does not include the value of the WTCP's leasehold interest, and (c) it does not include the value of the reversionary interest.
13. I have reviewed the documents upon which the Aviation Defendants rely in suggesting that buildings 1, 2, 4 and 5 World Trade Center have a value

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<sup>1</sup> Appraisal Institute. *The Appraisal of Real Estate*, 13<sup>th</sup> ed., Chicago, 2008; pp. 113-114, 526-528.

of only \$2.8 billion. I did not see anything suggesting that the Port Authority, JP Morgan or anyone else valued these buildings at \$2.8 billion.

14. The \$2.8 billion is also inadequate because it does not include the value of the Port Authority's reversionary interest. The lease expires in 2100 (see lease § 3). (Copies of the leases are attached as Exhibits L-O to the Aviation Defendants' Declaration of Desmond T. Barry, Jr.) The useful life of the property would extend beyond the term of the leases, based on the original construction, the improvements made to property, and WTCP's obligations to maintain and repair the property (see leases §§ 6.4, 13.1, 15.1, 19.11).
15. Further, the net present value ascribed to the leased fee rental payments of \$2.8 billion is based on the use of specific discount rates. Selection of a different discount rate in the calculation of the net present value amount would result in a significantly different total net present value calculation. The selection of an appropriate discount rate is a very complex task involving the consideration of many factors. Different appraisers or economists looking at the same transaction could determine that different discount rates are appropriate. I have not seen anything in the Summary Judgment Motion stating how the discount rates used to calculate the net present value of the leased fee rental payments were determined or demonstrating that the discount rates were proper.

16. Another reason why the \$2.8 billion is the wrong value is because it is based on the wrong valuation date. It considers the value of leased fee rental payments as of April 2001, or earlier. Pursuant to generally accepted valuation procedures, the valuation date is the date of the event at issue, here the date of loss, September 11, 2001.<sup>2</sup> This might not seem like such a big difference in time, but it could make a significant difference in the net present value of the lease rental payments because it is highly dependent on financial conditions and monetary rates as of a specific period when the discount rate is selected for the net present value calculations and which could impact on the selection of an appropriate discount rate.

17. The \$2.8 billion that the Summary Judgment Motion touts also does not reflect the value of the 1, 2, 4 and 5 World Trade Center buildings themselves because it does not take into account additional obligations and increments to the leased fee rentals reflected in the net leases. These include:

- a. An obligation under §§ 5.1 through 5.4, and §§ 5.6 through 5.9, to pay the lease base rental under any and all conditions, regardless of the circumstances that might impact collection of the sub-lease rentals by the tenant; *i.e.*, the WTCP plaintiffs;
- b. An obligation to pay certain potential additional base rent, via § 5.3 and § 5.4, if Gross Revenues exceed the levels considered in arriving at the \$2.8 billion amount;
- c. An obligation to make a certain stipulated payment in lieu of taxes (PILOT), via § 6;

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<sup>2</sup> Appraisal Institute. *The Dictionary of Real Estate Appraisal*, 4<sup>th</sup> ed., p. 305. Value 1., Chicago, 2002

- d. An obligation to pay for all care, maintenance or rebuilding of the improvements, via § 13;
- e. An obligation to procure and maintain insurance, via § 14;
- f. An obligation to rebuild, restore, repair, and replace the premises, via § 15;
- g. A restriction on signage, including that the lessee shall not erect, maintain or display any signs, lettering, advertising, posters, displays or similar devices on the exterior of the premises or elsewhere at the World Trade Center, via § 17; and
- h. A restriction, absent Port Authority approval, on erecting any structures, making any improvements or conducting any other type of construction work on the premises, via § 19.

In sum, the use of \$2.8 billion as the barometer of value improperly excludes the value of these considerations running from WTCP to the Port Authority in determining value.

18. The Aviation Defendants' most egregious error in their analysis is that they ignore entirely the public benefit and other non-commercial value of the World Trade Center complex and all of its constituent elements. The property enjoyed significant additional economic and other value, known as the public benefit value of the World Trade Center. The property also enjoyed value from other non-commercial benefits that it bestowed on the Port Authority and the New York-New Jersey region. None of the \$2.8 billion, nor the combined value of the leased fee (belonging to the Port Authority), the leasehold interest (belonging to WTCP), and the reversionary interest (belonging to the Port Authority) reflect these enormous values. These values were incorporated into the original planning, design and iconic nature of the buildings and the complex, but



are of a non-commercial nature, although providing additional economic and non-economic value to the City of New York and to the states of New York and New Jersey. The buildings were designed to reflect and enhance the economic vitality, strength and stature of New York City and of the states of New York and New Jersey, as the locus of world trade. They were also intended to promote the resurgence of the lower Manhattan office district and serve as a generator and incubator of jobs in the financial and other industries. The World Trade Center complex provided a place for people to work in lower Manhattan and served as a tourist attraction as well. All of this fueled the economy of downtown Manhattan, the City of New York and the states of New York and New Jersey and gave the Port Authority and the New York and New Jersey region great prestige.

**The Full Fair Market Value of the WTC Cannot be Determined Through the Use of Traditional Appraisal Techniques**

19. Where appropriate, an appraiser uses three basic valuation methodologies in estimating the market value of real estate. These three approaches analyze data from the market to develop independent value indications for a property. The three approaches are the Income Capitalization Approach, the Direct Sales Comparison Approach, and the Cost Approach.
20. The Income Capitalization Approach analyzes the property's earnings potential and the rate of return on the investment that would be demanded in the marketplace by prudent investors.

21. The Direct Sales Comparison Approach utilizes data from other properties of similar design, utility, and features that have been recently sold on the open market.
22. The Cost Approach is based on the premise that an informed buyer will pay no more for a property than the cost of constructing a comparable property of similar utility.<sup>3</sup>
23. The market value of WTC 1, 2, 4, and 5 cannot be accurately measured using these standard appraisal methodologies. The unique, iconic nature of the buildings, their public benefit purpose and their status as part of the specifically located entire unique World Trade Center complex cannot be ascertained by using any of the three market valuation methodologies.<sup>4</sup>  
  
The definition of “fair market value” does not recognize the existence of other economic effects and non-economic effects.
24. The Income Capitalization Approach cannot be used because it could reflect only a portion of the commercial rental value of the buildings and not the public benefit and other non-commercial values.
25. The Direct Sales Comparison Approach cannot be used because there are no comparable properties both because the World Trade Center complex

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<sup>3</sup> Appraisal Institute. *The Appraisal of Real Estate*, 13<sup>th</sup> ed., Principle of Substitution, p. 380, Chicago, 2008

<sup>4</sup> The Port Authority never leased the non-commercial, public purpose, and public benefit part of the properties or their operation to WTCP. The Port Authority retained its ownership and control over the public aspects of these buildings. For example, the net leases do not let the entirety of the World Trade Center buildings to plaintiffs, but only “portions of the World Trade Center while continuing to own, control and operate the World Trade Center pursuant to the World Trade Center Legislation” (lease recitals, p.3); WTC Legislation Sec. 6610 – “the effectuation of the World Trade Center [is] and will be in all respects for the benefit of the people of the states of New York and New Jersey, for the increase of their commerce and prosperity and for the improvement of their health and living conditions; and the port authority ... shall be regarded as performing an essential government function in undertaking the effectuation thereof, and in carrying out the provisions of law relating thereto.”

was unique, was specifically situated at a site prescribed by law, and also because leases or sales of purely commercial properties would not reflect the public benefit and other non-commercial values of the World Trade Center. There simply are no comparable properties anywhere in the World. In addition, the great involvement that the Port Authority continued to have in the World Trade Center and the great deal of control that the Port Authority retained during the lease period (see footnote 4) is another reason the amount of certain rental payments WTCP had agreed to make cannot be considered to constitute the fair market value of, or a recent "sales price" for, World Trade Center buildings 1, 2, 4 and 5.

26. The Cost Approach would also be an imperfect, albeit the best of the three methodologies for use as a barometer of the value of the World Trade Center buildings 1, 2, 4 and 5. The Cost Approach is considered to be the best choice for a highly specialized design and/or utility for which there exist few or no market sales comparisons.<sup>5</sup> That is the case here. However, even the Cost Approach cannot adequately reflect the total value of the World Trade Center buildings 1, 2, 4 and 5 taking into consideration their public benefit and non-commercial values as part of the entire World Trade Center complex.

27. In my professional opinion, I would value the 1, 2, 4 and 5 World Trade Center buildings at an amount at or in excess of the replacement cost. The fact of the matter is that the only way to obtain a comparable property is to

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<sup>5</sup> Appraisal Institute. *The Appraisal of Real Estate*, 13<sup>th</sup> ed., p. 382, Chicago, 2008.

rebuild the World Trade Center complex at the World Trade Center site.

It is also obvious that since September 11, 2001, no buildings comparable to the World Trade Center buildings within the World Trade Center complex have been available for lease or purchase.

28. In the appraisal that I submitted in the insurance litigation, I valued the purely commercial value of the property at replacement cost minus depreciation because the other appraisal methods were not appropriate. I did not quantify the broad public benefit and non-commercial value to the Port Authority and the New York and New Jersey region because that would not be quantifiable by an appraiser using traditional appraisal techniques. The prior appraisal was also done pursuant to certain restrictions and limitations imposed on my appraisal from the insurance contracts and insurance litigation.

29. Moreover, what is supposed to be appraised is what is alternatively called “market value” or “fair market value.” A definition of market value within the context of a *sale* of a real property, as stated in the Advisory Opinions of the most recent edition of the Uniform Standards of Professional Appraisal Practice, is:

“The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and *the passing of title from seller to buyer* under conditions whereby:

1. Buyer and seller are typically motivated;

2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.”<sup>6,7</sup>

30. In my professional opinion, a “market value” of the WTC buildings 1, 2, 4 and 5 prior to September 11, 2001, cannot be determined using traditional appraisal methods because there would be no commercial purchaser (or for that matter prospective lessee) who would offer to pay for the full value, including the public benefit and other non-commercial value of the buildings as part of the complex.

31. In addition, even if the transaction involving the leasehold interest were thought to be a “market” transaction, that amount, as discussed above, had little bearing on the full “market value” of the World Trade Center buildings leased by WTCP. Finally, it is not clear from the record presented in the Summary Judgment Motion that the lease transaction was a “market” transaction because it is not clear that the landlord and lessee were typically motivated. The landlord (the Port Authority) created a process whereby it limited the number of prospective lessees and used an auction method with closed bids. Further, given the artificial time

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<sup>6</sup> Uniform Standards of Professional Appraisal Practice, 2008-2009 ed., Advisory Opinion 22, A-76.

<sup>7</sup> Appraisal Institute *Dictionary of Real Estate Appraisal*, pp. 177-178, Chicago, 2002.

constraints created by the Port Authority for entering into leases, it is also not clear that a reasonable time was allowed for exposure in the open market. These and other factors make this an aberrant transaction.

32. Furthermore, there is no market or measure by which a post-destruction market value could be determined for the buildings themselves or for the net leases (other than a negative value for the net leases after September 11, 2001)<sup>8</sup>. After September 11, 2001, there was no market for the assignment of the net leases if WTCP had tried to assign the leases (even assuming WTCP could have gotten the Port Authority's consent). Because of the leaseholds' substantial burdens (including the rebuilding obligations), any assignee of the net leases would have required an enormous payment by WTCP to the assignee of the leases.

### **Conclusion**

33. What is being built at the World Trade Center site now reasonably and appropriately replaces what was destroyed, in terms of total rentable area, height, stature, function and iconic nature and as the driver for the

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<sup>8</sup> A leasehold estate may have a positive or negative value depending upon whether the contract rent, plus the cost of performing other leasehold obligations, is less than or greater than the current economic or market rent. In my practice, I myself have seen leaseholds with a negative value and have done appraisals on them reaching the conclusion that the leasehold has a negative value. If the contract rent plus cost of performance of other leasehold obligations is less than current market rent, the leasehold estate has a positive value; if the contract rent plus cost of performance of other leasehold obligations is greater than current market rent, the leasehold estate has a negative value. In the case of the World Trade Center, the leasehold obligations relate to the entire cost of operating, maintaining and insuring the property for the term of the lease. The market rent reflects the rentals received by WTCP from the WTCP sub-tenants, including existing lease rents, future new and renewal rents, etc. Because of the enormous replacement and lease payment obligations while there are no buildings and the complete absence of market rents, there was a negative value to the WTCP's leasehold interests following the destruction of the property on September 11, 2001.

economic engine for New York City (especially downtown Manhattan)  
and the states of New York and New Jersey.

34. Although a precise amount cannot be determined, the value of what was  
destroyed on September 11, in my professional opinion, should be at least  
in excess of the billions it will take to replace the buildings that were  
destroyed.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: August 14, 2008  
New York, New York

A handwritten signature in black ink that reads "Sheldon Gottlieb". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

SHELDON GOTTLIEB, MAI  
SENIOR VICE PRESIDENT  
AND CHIEF APPRAISER  
Certified New York State  
General Real Estate Appraiser  
Certificate No. 46000000579

## **EXHIBIT 26**



**CERTIFICATION**

I certify that, to the best of my knowledge and belief,

- The statements of fact contained in this declaration are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in, or the use, of this report.
- My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- As of the date of this report, I, Sheldon Gottlieb, have completed the requirements of the continuing education program of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- No one other than the undersigned prepared the analyses, opinions, and conclusions concerning the value of the real estate set forth in this declaration.



Sheldon Gottlieb, MAI  
Certified New York State  
General Real Estate Appraiser  
Certificate No. 46000000579

Dated: August 14, 2008  
New York, New York

## **EXHIBIT 27**

Qualifications – Sheldon Gottlieb, MAI

I am the Senior Vice President and Chief Appraiser of the real estate appraisal and consulting firm of Jerome Haims Realty, Inc. I have been with the firm for more than 30 years and have served as the chief appraiser for more than 20 years. The firm occupies the entire 22<sup>nd</sup> floor at 630 Third Avenue in Manhattan and has a full time staff of 15 people.

As a means of presenting my qualifications in a concise manner to the reader, I have grouped my various activities into several sections. These are presented directly below:

PROFESSIONAL  
AFFILIATIONS:

Member of the Appraisal Institute with the MAI designation  
Former President – Greater New York Chapter No. 3 of the  
Appraisal Institute (now merged with the New York  
Metropolitan Chapter)  
Real Estate Board of New York – Broker C Member  
Currently serving as a member of the Appraisal Education  
Committee  
American Arbitration Association  
Former Member - National Real Estate Valuation Council  
Real Estate Arbitration Panel  
Urban Land Institute – Associate Member  
Rho Epsilon Real Estate Fraternity

EDUCATIONAL  
BACKGROUND:

Graduate of City College of New York,  
Bernard M. Baruch School of Business and Public  
Administration, specializing in Real Estate and Economics

Successfully completed numerous courses, seminars and lectures on  
real estate valuation and advanced appraisal topics.

Qualifications – Sheldon Gottlieb, MAI (Cont'd.)

LECTURER:

Qualified and approved by the State of New York as an instructor for all courses required for New York State General Appraisal Certification.

Qualified as and taught numerous courses as an approved Instructor for the Appraisal Institute.

Guest lecturer at the New York University School of Continuing Education on capitalization and discounted cash flow analysis.

Presented numerous real estate valuation and investment analysis lectures at the Real Estate Division of the New School for Social Research.

Presented real estate brokerage and appraisal courses at the Eastern School of Real Estate.

CERTIFIED:

State of New York Certified Real Estate General Appraiser, Certificate No. 46000000579.

State of New Jersey Certified Real Estate General Appraiser, No. 42RG00178500.

Presently certified with the Appraisal Institute under its program of periodic recertification.

EXPERIENCE:

Real estate appraiser providing appraisal service to various firms, governmental agencies and private individuals. The scope of these appraisals has covered all phases of valuation including: mortgage loans, certiorari, condemnation, urban renewal, estates and others. They have included hundreds of apartment houses (including rental, condominium and cooperative), all types of retail (including department stores, regional and strip malls, and "big boxes"), office buildings, industrial properties, shopping centers, subdivisions, etc, in the New York City metropolitan area as well as other parts of the Northeast.

Specialized experience includes numerous appraisals of nursing homes, hotels and motels, churches and synagogues, golf courses and marinas, large truck terminals, gasoline stations, movie theatres, large utility properties (i.e. natural gas distribution and processing facilities), railroads and railroad rights of way.

Licensed Real Estate Broker

Qualifications – Sheldon Gottlieb, MAI (Cont'd.)

COURT

TESTIMONY:

Have represented clients and have been qualified to testify as a real estate valuation expert in the United States District Court, United States Bankruptcy Court, New York State Supreme Court, New York State Court of Claims, New York City Civil Court and Landlord and Tenant Court, as well as before the New York City Tax Commission and New York City Board of Standards and Appeals on complex assessment, zoning and planning issues.

Within the past six years, I have given deposition or trial testimony as an expert in the judicial proceedings, listed below:

1. New York City Tax Commission:  
Hearing, re certiorari tax appeal, Co-op City v.  
New York City, October 2002.
2. United States Bankruptcy Court:  
Trial: Re: 425 West 26<sup>th</sup> Street, LLC  
Judge Stuart Bernstein, January 2003.
3. New York State Supreme Court – Brooklyn:  
Trial: Re: 2653 Ocean Avenue, Brooklyn, New York.  
Certiorari tax appeal.  
Judge Pesce, June 2003.
4. New York State Supreme Court – Queens:  
Trial: Re: 118-11 84<sup>th</sup> Avenue, Queens,  
New York.  
Certiorari tax appeal.  
Judge Giola, June 2003
5. New York City Tax Commission  
Hearing: Re: Certiorari tax appeal.  
Co-op City v. New York City, August 2003.
6. New York State Supreme Court – Manhattan  
Trial: Re: Bradhurst Avenue  
Shlomo v. City of New York  
Condemnation; Judge Paula Omansky, September 2004.
7. New York State Supreme Court – Manhattan  
Trial: Re: 125 Park Avenue  
Certiorari tax appeal.  
Judge Leland DeGrasse, April 2006.
8. New York State Supreme Court – Manhattan  
Trial: Re: 305 East 40<sup>th</sup> Street  
Certiorari tax appeal.  
Judge Walter B. Tolub, August 2008.

## **EXHIBIT 28**

**REAL ESTATE APPRAISER FOR AGENCIES OF NEW YORK CITY**

Department of General Services  
New York City Law Department - Office of the Corporation Counsel  
Division of Real Property  
Economic Development Corporation  
Department of Housing Preservation and Development  
Housing Authority  
Office of the Comptroller - Pension Fund  
Public Development Corporation  
Department of Ports and Terminals  
School Construction Authority  
Department of Citywide Administrative Services  
Primary Care Development Corporation  
Lower Manhattan Development Corporation

**REAL ESTATE APPRAISER FOR AGENCIES OF NEW YORK STATE**

Power Authority  
Office of Parks, Recreation, and Historic Preservation  
Department of Transportation  
State University of New York  
City University of New York  
Empire State Development Corporation  
(formerly known as Urban Development Corporation)  
Queens West Development Corporation  
Department of Environmental Conservation  
Facilities Development Corporation  
Metropolitan Transportation Authority  
Office of the Nassau County Atty Bureau of Real Estate  
Dormitory Authority  
Office of the Attorney General  
The Port Authority of New York & New Jersey  
Housing Finance Agency

**REAL ESTATE APPRAISER FOR AGENCIES OF FEDERAL GOVERNMENT**

National Park Service  
General Services Administration  
Department of Housing and Urban Development  
Federal Home Loan Bank Board (now Federal Housing Finance Board)  
Federal Deposit Insurance Corporation  
Federal Savings & Loan Insurance Corporation  
Department of Justice  
Department of the Navy  
United States Postal Service  
Federal National Mortgage Association (now Fannie Mae)  
Federal Asset Disposition Association  
Resolution Trust Corporation (now Savings Association Insurance Fund)  
Internal Revenue Service

**PARTIAL LIST OF CLIENTS**

National Cold Storage Company  
H.R.H. Development Corporation  
Swingline, Inc.  
Plaza Realty Investors, Inc.  
Jack Kent Cooke (JKC Realty, Inc.)  
Integrated Resources, Inc.  
Helmsley Enterprises, Inc.  
Coronet Capital Company  
Metromedia, Inc.  
Western Electric  
Transamerica Insurance Group  
Manhattan East Hotels and Apartments  
Battery Park City Authority  
Equitable Life Assurance Society of the United States  
Kurzman Karelsen & Frank, LLP  
Ditchik & Ditchik, LLP  
Weil, Gotshal & Manges LLP  
Raymond, Parish & Pine, Inc.  
De Forest and Duer  
CBS Inc.  
Loeb and Loeb LLP  
Columbia-Presbyterian Medical Center  
Cullen and Dykman LLP  
Podell, Schwartz, Schechter & Banfield, LLP  
Kaufman Astoria Studios, Inc.  
Kalikow Realty & Construction Corporation  
The Zeckendorf Company  
Shea & Gould  
Continental Assurance Company  
The ADCO Group  
Kaufman Management Company, LLC  
Brown, Raysman & Millstein LLP (now Thelan Reid Brown Raysman & Steiner LLP)  
The Stillman Group  
Grand Metropolitan, Inc.  
Cohen Brothers Realty Corporation  
Goodstein Development Corporation  
Colonial Funding Corporation  
Lord Day & Lord, Barrett Smith  
Krass & Lund, P.C.  
New York Life Insurance Company  
The Travelers Companies - Travelers Realty Investment Company  
Fink Baking Corporation  
Kelley Drye & Warren LLP



Simpson Thacher & Bartlett LLP  
Jewish Board of Family and Children's Services, Inc.  
John P. Engel & Associates  
Asher Dann  
EURAM Management, Inc.  
Columbia University  
Richards & O'Neil LLP (after mergers, now Bingham Dana LLP)  
Sonneschein, Sherman & Deutsch LLP  
American Broadcasting Companies, Inc.  
International Business Machines Corporation  
Fairway Operating Corporation  
Penn Central Transportation Company  
Federal Home Loan Mortgage Corporation  
New York University  
S. J. Landau Corporation  
United Nations Development Corporation  
Robinson, Silverman, Pearce, Aronsohn & Berman LLP (now Bryan Cave LLP)  
Battle Fowler LLP  
Madison Equities  
New School for Social Research  
Milstein Properties Corporation  
Northcorp Realty Advisors, Inc.  
The Trump Organization  
Rosenman & Colin LLP (now Katten Muchin Rosenman LLP)  
Merrill Lynch & Company  
Herzfeld & Rubin, P.C.  
Jeffrey Management Corporation  
Goldman & Stein  
Skidmore, Owings & Merrill LLP  
Kinney Systems, Inc.  
Kraus Enterprises, Inc.  
Phipps Houses  
John Hancock Mutual Life Insurance Company  
Arlen Realty & Development Corporation  
P & J Joint Venture  
Peter Kimmelman Asset Management Company  
Chatwal Hotels & Restaurants, Inc.  
J. W. Mays, Inc.  
Gerosa, Inc.  
Time Equities, Inc.  
The Durst Organization  
National Railroad Passenger Corporation (Amtrak)  
Gandin, Schotsky & Rappaport, P.C.  
Young & Rubicam, Inc.  
Maryland Casualty Company

United Nations, Secretary-General for General Services  
Herrick, Feinstein LLP  
Meringoff Properties  
HRO International Ltd.  
Prudential Insurance Company of America  
Nelson Equities, Inc.  
International Bank Note Company  
Pottish Freyberg Marcus & Velazquez LLP  
Harry Otterman  
Inter-Continental Hotels Corporation  
Ben Heller  
Mark Stuart Goldberg & Associates  
Kirkpatrick & Lockhart LLP  
Loews Corporation  
Takashimaya Fifth Avenue Corporation  
New York Telephone Company (now Verizon)  
Consolidated Edison Company of New York, Inc.  
American Telephone & Telegraph Company  
Greenfield Eisenberg Stein & Senior LLP (now Greenfield Stein & Senior LLP)  
Property Resources Corporation  
New York-Presbyterian Hospital / Columbia University Medical Center  
Mark Perl binder  
Newmark & Company Real Estate Inc.  
Carol Management Corp.  
Philip A. MacTaggart (Western Management Corporation)  
Crescent Equities  
Kiska Developers, Inc.  
The Ford Foundation  
Patterson, Belknap, Webb & Tyler LLP  
Kew Management Corporation  
Boston Properties, Inc.  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
World-Wide Holdings Corporation  
The DeMatteis Organizations  
White & Case LLP  
The Solomon R. Guggenheim Museum  
Minskoff Equities, Inc.  
Wagner, Davis & Gold, P.C.  
Scala and Scala  
Stroock & Stroock & Lavan LLP  
Richard E. Talmadge  
Spengler Carlson Gubar Brodsky & Frischling  
Consolidated Rail Corporation  
DiLorenzo Associates  
Sive Paget & Riesel, P.C.

MDFC Loan Corporation  
Jonathan Woodner Company  
Walter & Samuels  
Mitsubishi Estate Company, Ltd.  
Dewey Ballantine LLP (now Dewey & LeBoeuf LLP)  
The Macklowe Organization  
Schulte Roth & Zabel LLP  
New York Plaza Building Company  
Equitable Real Estate Management, Inc.  
Credit Suisse First Boston (formerly known as First Boston Corporation)  
CIGNA Real Estate Investors (Times Square Real Estate Investors)  
Consolidated Asset Recovery Corporation  
Rudin Management Company, Inc.  
Squadron, Ellenoff, Plesent & Sheinfeld, LLP (now Hogan & Hartson LLP)  
Milbank, Tweed, Hadley & McCloy LLP  
Goldberg Weprin & Ustin LLP  
Greenthal/Harlan Realty Services Company  
CRT Asset Management, Inc.  
J. E. Robert Company of New England  
Rodman Management  
O'Melveny & Myers LLP  
Brown & Wood LLP (now Sidley Austin LLP)  
Ford Land Service Corporation (subsidiary of Ford Motor Company)  
Morrison, Cohen, Singer & Weinstein LLP (now Morrison Cohen LLP)  
Beatie and Osborn LLP  
Home Holdings, Inc.  
Sterling Forest Corporation  
Phillips, Nizer, Benjamin, Krim & Ballon LLP (now Phillips Nizer LLP)  
Millennium Partners  
Emmet, Marvin & Martin LLP  
Gibson, Dunn & Crutcher LLP  
Winthrop, Stimson, Putnam & Roberts LLP (now Pillsbury Winthrop Shaw Pittman LLP)  
Brandt, Steinberg & Lewis LLP  
Williams Real Estate Company, Inc.  
PEF Israel Endowment Fund  
Rosenthal Appraisal Company  
David Tarlow & Company  
Danziger & Markhoff LLP  
Rapaport Brothers, P.C.  
Kalkines, Arky, Zall & Bernstein, LLP  
Greiner-Maltz Company, Inc.  
Leahy, Nyberg, Curto & D'Apice LLP (now Curto, Schwarts, Curto Bond & Vomolakis, LLP)  
Skadden, Arps, Slate, Meagher & Flom LLP

**QUALIFICATIONS**

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Goldstein, Goldstein, Rikon & Gottlieb, P.C.  
Sloyer-Forman, Inc.  
Emmes Asset Management Corporation  
Ford Models, Inc.  
South Cove III Associates  
Bachner Tally Polevoy & Misher LLP  
Boulanger, Hicks & Churchill, P.C.  
Vornado Realty Trust  
L & L Wings, Inc.  
Downtown Realty Management LP  
Alan Fox, Esq.  
Alliance for Downtown New York  
Atlan Management Corporation  
Stafford Toner & Schwartz  
Nathan Halegua  
UNITE  
Blank Rome LLP  
Alice Alexiou  
Paramount Group, Inc.  
Parker Chapin Flattau & Klimpl LLP  
Royal Charter Properties, Inc.  
Friedman Management Company  
Pavia & Harcourt LLP  
Romarco Realty Corporation  
Builders Group LLC  
Greenberg Traurig LLP  
Garfield Development Corporation  
Crocco & Demaio, P.C.  
Manhattan Eye, Ear and Throat Hospital  
Reboul, MacMurray, Hewitt, Maynard & Kristol  
Baldwin & Haspel, LLC  
Sutton Hill Associates  
Theodore W. Kheel  
Ronald McDonald House of New York, Inc.  
Children's Oncology Society of New York  
Graubard Mollen & Miller LLP  
Carter Ledyard & Milburn LLP  
'21' Club, Inc.  
The Feil Organization  
Steinberg & Pokoik Management Corporation  
Shapiro & Shapiro  
Jonathan Marks, PC  
Bernard Spitzer, P.E.  
Empire Management  
Brill & Meisel  
Goldfarb & Fleece

Rosen & Reade, LLP  
Trammel Crow Corporate Services, Inc.  
Richard S. Wolkoff, Esq.  
Kramer, Levin, Naftalis & Frankel LLP  
Rockefeller Center Management Corporation  
The Shubert Organization  
Kaye, Scholer, Fierman, Hays & Handler, LLP  
Koeppel Management Company LLC  
Koeppel Tener Real Estate Services, Inc.  
Proskauer Rose LLP  
Metropolitan Life Insurance Company  
L. B. Management Company & Affiliates  
Sabin, Bermant & Gould LLP  
Nixon Peabody LLP  
Association of the Bar of the City of New York  
Willow Funding Company, LP  
LCOR Incorporated  
Jankoff & Gabe, P.C.  
Lampf, Lipkind, Prupis & Petigrow, P.C.  
Jerald Rosenbloom, Esq.  
International Union AFL-CIO, CLC  
S. Rudy Gatto and Associates Development Corporation  
Becker Ross Stone DeStefano & Klein, LLP  
Clarendon Management Corporation  
First Sterling Corporation  
J. P. Morgan & Company, Inc.  
Johnson, Matte & Hobgood, LLP  
Maidman & Mittelman, LLP  
Mercedes-Benz USA, Inc.  
Mount Sinai Medical Center  
Ness, Motley, Loadholt, Richardson & Poole, P.A. (now Motley Rice LLC)  
New York Medical College  
Bryan Cave Robinson Silverman LLP (now Bryan Cave LLP)  
Rosenbloom, Hofflich & Feuer, LLP  
Sheraton Manhattan Hotel  
Rockefeller Group International, Inc.  
Two Trees Management Company  
United States Attorney's Office  
U. S. Generating Company  
UBS AG  
Walker, Malloy & Company, Inc.  
YMCA of Greater New York  
Wofsey Rosen Kweskin & Kuriansky LLP  
Arnold S. Penner  
Dorsey & Whitney LLP  
Edward Isaacs & Company  
Irwin, Lewin, Cohn & Lewin, P.C.

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Kronish Lieb Weiner & Hellman, LLP  
Manhattan East Suite Hotels  
Midwood Management Corporation  
Orient-Express Hotels, Inc.  
Ponte Equities, Inc.  
Risk Enterprise Management, Ltd.  
Rockrose Construction, LLC  
Shatz Meier Franzino & Scher, LLP  
Wien & Malkin, LLP  
Hamilton, Rabinovitz & Alschuler, Inc.  
Forest City Ratner Companies  
C. Lawrence Paine, LLC  
Jenkins & Gilchrist Parker Chapin LLP  
PSEG Services Corporation  
The Jack Parker Corporation  
St. Thomas P.E. Church  
Stadtmauer Bailkin LLP  
115-87 Owners Corporation  
Group Health Incorporated  
Solomon, Zauderer, Ellenhorn, Frischer & Sharp LLP (merged with Proskauer  
Rose LLP)  
Washington Square Partners, Inc.  
Finkel Goldstein Berzow Rosenbloom & Nash, LLP  
Friedman & Gotbaum, LLP  
The Moinian Group  
Zomba Recording Corporation  
Saint Mary's Episcopal Center, Inc.  
Arent Fox Kintner Plotkin & Kahn, PLLC  
Robert S. Katz, Esq.  
Manatt, Phelps & Phillips, LLP  
Wank Adams Slavin Associates LLP  
Silverstein Properties, Inc.  
New York College of Podiatric Medicine  
Fifth Avenue Hotel Suites, LLC  
Club Quarters, Inc.  
Phillips Nizer LLP  
Proskauer Rose, LLP  
Ponte Gadea Florida, Inc.  
Akin, Gump, Strauss, Hauer & Feld, LLP  
Balber Pickard Battistoni  
Rollinson Law Firm  
Robert Cronheim  
The Related Companies, Inc.  
Coach, Inc.  
Banif Mortgage company  
Forbes Inc.

The Doe Fund, Inc.  
Kaye Scholer LLP  
Janvey, Gordon, Herlands, Randolph & Cox Realty Corp.  
Thelen Reid & Priest LLP  
Bryan Cave LLP  
Helmsley-Spear, Inc.  
Goldberg Weprin & Ustin LLP  
Alterman & Boop LLP  
Wachtel & Masyr, LLP  
Hutner Klarish LLP  
THE Tunnel Partnership  
Amerimar Enterprises, Inc.  
Smith, Buss & Jacobs, LLP  
Blesso Properties Corporation  
Rinzler & Rinzler  
Alfa Development Management, LLC  
BLDG Management Company, Inc.  
Dominion Management Company  
Jeffries Morris, Inc.  
Mann Realty Associates  
Samson Management LLC  
Starwood Hotels & Resorts Worldwide, Inc.  
Coalition for the Homeless, Inc.  
International Brotherhood of Teamsters, Local 810  
Laboratory Institute of Merchandising  
Marcus Rosenberg & Diamond LLP  
Montclare & Wachtler, LLP  
New York City Terminal Market  
Orient Express Hotels, Inc.  
The Salzhauer Company  
The Abramson Law Group, PLLC  
Troutman Sanders LLP  
United American Land, LLC  
Extell Development Company  
Rockrose Development Corporation  
Helen Hayes Theatre  
Sylvan Corporation, N.A.  
Vanlan Corporation, N.A.  
Abi Kalimian  
DLA Piper US LLP  
Stein Riso Mantel, LLP  
Cynthia Broan Gallery  
Goelet, LLC  
City Center Real Estate, Inc.  
Ralph Zirinsky Realty Company  
Schwartz & Blumert LLP

Stellar Management Company, Inc.  
Norris, McLaughlin & Marcus, P.A.  
Ultimate Realty New York, LLC  
Scheichet & Davis, P.C.  
Mitchell Silberberg & Knupp LLP  
Fish & Richardson P.C.  
York Resources LLC  
Metro Loft Management, LLC  
Why Partners, LLP  
Koch Family, LLC  
Dechert LLP  
Citi-Urban Management Corporation  
Law Office of Peter D. Hoffman, PC  
The American Numismatic Society  
The Colley Group  
Law Office of Herbert H. Chaves, Esq.  
DMJM Harris, Inc.  
Alston & Bird LLP  
Marcus Attorneys  
Garson Brothers Development Corporation  
Starr & Company  
Bally Total Fitness Corporation  
Target Corporation  
Cambridge Systematics, Inc.  
Quinlan Economic Development Corporation  
Samsung Texas Construction, Inc.  
United Management LLC  
Perlbinder Realty Corporation  
Wasserman Grubin & Rogers, LLP  
Atco Properties & Management, Inc.  
Holland & Knight, LLP  
Himmel Meringoff Properties, Inc.  
Goldberg Rimberg & Friedlander, PLLC  
Maimonides Medical Center  
Smith, Buss & Jacobs, LLP  
Brack Capital Real Estate-USA  
The Riese Organization Corporate Group  
Denham Wolf Real Estate Services, Inc.  
Buckingham Hotel  
Plaxall, Inc.  
Katten Muchin Rosenman LLP  
Sony BMG



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**REAL ESTATE APPRAISER FOR FINANCIAL INSTITUTIONS**

Sumitomo Trust & Banking Company, Ltd.  
The Dai-Ichi Kangyo Bank  
Dollar Dry Dock Savings Bank  
Chase Manhattan Bank, N.A.  
CorEast Savings Bank  
Yasuda Trust and Banking Company, Ltd.  
Mitsui Trust & Banking Company  
Bankers Trust Company  
Bank of Montreal  
Nissho Iwai American Corporation  
Thrift Associations Service Corporation  
Long-Term Credit Bank  
Beacon Federal Savings & Loan Assoc.  
Manufacturers Hanover Trust Company  
Bayside Federal Savings & Loan Assoc.  
National Westminster Bank, USA  
Washington Federal Savings & Loan Assoc.  
Hudson Valley Federal Credit & Union  
Morsemere Federal Savings & Loan Assoc.  
Barclays Bank International Ltd.  
Flushing Federal Savings & Loan Assoc.

South East Bank & Trust  
Deutsche Bank A.G.  
Mitsubishi Trust and Banking Corporation  
Crestmont Federal Savings & Loan Assoc.  
Bank of New York

Bank Leumi le Israel B.M.

Saitama Bank, Ltd.  
United States Trust Company  
DG Bank (Switzerland) Ltd.  
Shawmut Bank Connecticut, N.A.  
Amsterdam-Rotterdam Bank, N.V.  
East New York Savings Bank  
Citicorp North America, Inc.  
City & Suburban Federal Savings Bank

Greater New York Savings Bank  
Crossland Savings

Riggs National Bank of Washington, D.C.

River Bank America  
Bank of Yokohama, Ltd.  
Taiyo Kobe Bank, Ltd.  
Chuo Trust & Banking Company  
Hokkaido Takushoku Bank, Ltd.  
Daiwa Bank  
Citibank N.A.  
Toyo Trust & Banking Company  
Morgan Guaranty Trust  
Bank of Tokyo, Ltd.  
Lincoln Savings Bank  
Mitsubishi Bank, Ltd.  
Long Island Savings Bank  
Nippon Credit Bank Ltd.  
Tokai Bank Ltd.  
Hokuriku Bank, Ltd.  
Kumagai Gumi Company  
Swiss Bank Corporation  
Chiba Bank  
American Savings Bank  
Irving Trust Company (now  
Bank of New York)  
Hachijuni Bank  
Chemical Bank  
Goldome Bank  
Hyakujushi Bank  
European American Bank (aka  
EAB)  
Bowery Savings Bank (now State  
Bowery Savings Bank)  
Kyowa Bank, Ltd.  
UniBank  
LBS Bank  
GE Capital  
East River Savings Bank  
Continental Bank  
Emigrant Funding Corporation  
Connecticut National Bank (now  
Shawmut Bank Conn.)  
The Asahi Bank, Ltd.  
The Ramapo Bank (now Valley  
National Bank)  
Marine Midland Bank (now

Astoria Federal Savings Bank

Bank of America

Wells Fargo Bank

Suncoast Savings and Loan Association

Sterling National Bank & Trust Company of New York

Caisse Nationale de Credit Agricole

York

Republic National Bank of New York

Northern Trust Bank

First Republic Bank

CHB America Bank

New Bank

HSBC)

NationsBank (now Bank of America)

Bayerische Vereinsbank AG

Banco Bilbao Vizcaya, S.A.

Guaranty Bank and Trust

Company

Fleet Bank

Federal Reserve Bank of New

Heartland Bank

Apple Bank

First Bank of Beverly Hills

Morgan Stanley

Nara Bank

People's Bank